

1 David A. Bahr (Oregon Bar No. 90199)
2 Bahr Law Offices, P.C.
3 1035 1/2 Monroe Street
4 Eugene, OR 97402
5 (541) 556-6439
6 davebahr@mindspring.com

7 Elena Saxonhouse (California Bar. No. 235139)
8 Sierra Club Environmental Law Program
9 85 Second St., 2nd Floor
10 San Francisco, CA 94105
11 (415) 977-5765
12 (415) 977-5793 (facsimile)
13 Elena.Saxonhouse@Sierraclub.org

14 Attorneys for Plaintiffs

15 MELINDA HAAG (CSBN 132612)
16 United States Attorney
17 ALEX TSE (CSBN 152348)
18 Acting Chief, Civil Division
19 ABRAHAM A. SIMMONS (CSBN 146400)
20 Assistant United States Attorney
21 450 Golden Gate Avenue, 9th Floor
22 San Francisco, California 94102-3495
23 Telephone: (415) 436-7264
24 Facsimile: (415) 436-6748
25 Email: abraham.simmons@usdoj.gov

26 Attorneys for Federal Defendant

27 **IN THE UNITED STATES DISTRICT COURT**
28 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
SAN FRANCISCO DIVISION

**THE SIERRA CLUB and ENVIRONMENTAL
INTEGRITY PROJECT,**

Plaintiffs,

vs.

**UNITED STATES ENVIRONMENTAL
PROTECTION AGENCY,**

Defendant.



Case No. C-11-0846-MEJ

**THIRD SUPPLEMENTAL JOINT CASE
MANAGEMENT REPORT**

1 This is an action brought by Plaintiffs pursuant to the Freedom of Information Act, 5 U.S.C. §
2 552, to compel production of documents. The information request upon which this suit is based, sought
3 information submitted to defendant relating to the operations of coal-fired power plants owned by the
4 Luminant Corporation.

5 After the parties completed briefing cross-motions for summary judgment, but before oral argu-
6 ment on same, on May 20, 2012, the Court vacated the scheduled hearing and ordered the parties to
7 meet and confer in her chambers on May 30, 2012. Dkt. No. 50. After fruitful discussion in chambers,
8 the parties agreed to continue with informal settlement discussions in an effort to resolve this matter
9 without further litigation. Accordingly, the parties engaged in a number of direct and informal settlement
10 conference calls and have exchanged a settlement proposal. Additionally, as the Parties informed the
11 Court, recent EPA enforcement activities involving Luminant have impacted EIP and Sierra Club's in-
12 terest in the documents at issue in this matter. Because the parties required additional time in which to
13 explore possible resolution of this case, when they reported back to the Court on September 20, 2012,
14 they requested that the case be stayed until November 21, 2012 by which time they would inform the
15 Court of the status of their settlement efforts. Dkt. No. 52. The Court so ordered. Dkt. No. 53.

16 The parties reported to the court on November 21, 2012, that they desired additional time to ex-
17 plore a possible settlement of this case. Dkt. No. 54. Accordingly, the Court set December 21, 2012 as a
18 deadline for the parties to report their progress in this regard. Dkt. No. 55.

19 The parties then reported to the court on December 19, 2012, that they desired an additional 60
20 days to explore a possible settlement of this case. Dkt. No. 56. Accordingly, the Court set February 21,
21 2013 as a deadline for the parties to report their progress in this regard. Dkt. No. 57. The Parties apolo-
22 gize to the Court that they did not submit this report by February 21, 2013.

23 The Parties have continued their dialogue, believe they are making substantive progress toward
24 reaching a settlement, and are closer to a general consensus on how to settle the case. However, because
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1 of the complexity of the issues involved, the Parties require additional time to negotiate the details of the
2 settlement terms and obtain approval for a final settlement from their respective organizations. They
3 therefore desire additional time in which to explore a negotiated resolution to this dispute.

4 Accordingly, the Parties request that they be provided an additional 90 days in which to attempt
5 to conclude their settlement negotiations and report back to the Court on the status of same no later than
6 May 28, 2013.
7

8 Respectfully submitted for the Court's consideration, this 27th day of February, 2013.

9 MELINDA HAAG
10 United States Attorney

11 s/ David Bahr
12 David Bahr (Oregon Bar No. 901990)
13 Bahr Law Offices, P.C.
14 1035 ½ Monroe Street
15 Eugene, OR 97402
16 (541) 556-6439
17 davebahr@mindspring.com

18 s/ Abraham Simmons
19 ABRAHAM SIMMONS
20 Assistant United States Attorney
21 Attorneys for Federal Defendant

22 The parties shall file an updated status report by June 11, 2013.
23 Dated: March 5, 2013

